

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MALIBU MEDIA, LLC,

No. C 15-04430 WHA

Plaintiff,

v.

JOHN DOE SUBSCRIBER ASSIGNED IP  
ADDRESS 24.130.20.136,

Defendant.

**ORDER DENYING REQUEST  
FOR EXTENSION AND  
DISMISSING CASE FOR  
FAILURE TO TIMELY  
SERVE DEFENDANT**

Plaintiff Malibu Media, LLC, commenced this copyright infringement action on September 27, 2015. Pursuant to Rule 4(m), the deadline to effectuate service was January 25, 2016. On November 3, Malibu Media filed a motion for leave to serve defendant's Internet provider with a subpoena for the purpose of receiving defendant's identifying information. An order granted that motion on November 8 (Dkt. No. 11). That order also required Malibu Media to file any documents that included defendant's identifying information under seal and prohibited Malibu Media from disclosing that information or using it for any purpose other than protecting its rights as set forth in the complaint.

Malibu Media received defendant's identifying information on January 6. On January 19, Malibu Media filed its motion to file under seal its amended complaint, proposed summons, and return of service (Dkt. No. 16). On January 20, an order granted Malibu Media's sealing motion (Dkt. No. 17). The summons issued the same day (Dkt. No. 18).


1 On January 25, the deadline to effectuate service, Malibu Media sought to extend the  
2 deadline noting that counsel had not yet received the unredacted summons by mail. An order  
3 extended the deadline to February 5 (Dkt. No. 20). On February 5, Malibu Media sought a  
4 further extension, noting counsel still had not received the unredacted summons by mail. The  
5 same day, an order extended the deadline to February 19 (Dkt. No. 23). On February 9, counsel  
6 for plaintiff contacted the Clerk's Office, noting that they had not received the unredacted  
7 summons by mail, and the Clerk reissued the summons. Malibu Media received the unredacted  
8 summons on February 12 and requested a third extension on February 18 (Dkt. No. 23).

9 Even if the unredacted summons was not mailed to Malibu Media on January 20, which  
10 seems unlikely, counsel have not acted diligently and have filed the requested extensions at the  
11 last minute. Plaintiff's counsel (or any associated counsel of record) could have gone in person  
12 to the Clerk's Office on the 16th floor of 450 Golden Gate Ave., San Francisco, to retrieve the  
13 unredacted summons thereby avoiding any delays caused by the mail. Counsel elected not to  
14 do so. (To be clear, in order to protect the identity of the defendants in Malibu Media's  
15 numerous ongoing actions in this district, unredacted summonses will only be issued to counsel  
16 that have appeared in the given action, not to any third parties such as messengers.)

17 Malibu Media's failure to timely serve the defendant in this action is the result of flawed  
18 follow-through on counsel's part. Malibu Media's third request for an extension is **DENIED**,  
19 and this action is **DISMISSED** for failure to timely serve the defendant. The Clerk shall please  
20 **CLOSE THE FILE.**

21  
22 **IT IS SO ORDERED.**

23  
24 Dated: February 22, 2016.

25   
26 WILLIAM ALSUP  
27 UNITED STATES DISTRICT JUDGE  
28